Joint Committee on Taxation
JCX-12-84
June 6, 1984

TENTATIVE RECOMMENDATIONS FOR RESOLUTION OF ISSUES INVOLVING LIMITED CONTROVERSY

I. Tax Freeze; Tax Reform Generally

A. Tax Freeze and Related Provisions

3.	Net interest exclusion. (p. 12)	Senate recedes.

D. Corporate Tax Provisions

26.	Holding period for property distributed by one corporation to another. (p. 40)	Same in both bills. House recedes on effective date, so the provision applies to distributions after the date of enactment.
32.	Dividend Distributions of discount obligations by corporations. (p. 50)	Same in both bills. House recedes on the effective date, so the provision applies to distributions declared after March 15, 1984.
33.	Delay application of net operating loss rules added by Tax Reform Act of 1976. (p. 50)	House recedes with an amendment adding "G" reorganizations to the reorganizations covered by the 1976 Act's rules, if and when they become effective.
34.	"C" reorganizations. (p. 50)	House recedes. The Statement of Managers will indicate that in the case of a Treasury approved failure to distribute, the parties generally will be treated as if a

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		distribution and recontribution had occurred.
35.	"D" reorganizations. (p. 50)	House recedes with a technical amendment to conform the provision more closely to section 304, by defining control as ownership of 50 percent of the voting power or 50 percent of the value of the acquired corporation.
39.	Consolidated returns. (p. 58)	House recedes with certain technical amendments. One would require grandfathered groups to meet the 80-80 percent tests of the provision in order to continue to be treated as an affiliated group. Regulations would provide instances in which mere relative changes in value of different classes of stock would not cause disaffiliation. Another would apply the new definition of "affiliated group" for all income tax purposes, not just consolidated return purposes. Effective date.--Open, with respect to the status of groups becoming affiliated under present law after March 1, 1984, and before April 12, 1984.

E. Partnership Provisions

40.	Retroactive allocations. (p. 60)	Senate recedes with report language requiring monthly convention by regulations. Rules for tiered partnerships conformed to Senate committee report. Retroactive allocation rules applicable to

	payments made after the close of the taxable year of accrual and change of interest in the partnership. In addition, a cash-method partner who "contributes" accrued liabilities to a partnership will be allocated the deductions with respect to those liabilities.
41. Payments for services or property. (p. 60)	
(a) Disguised payments for services or property.	(a) House recedes.
(b) Disguised sales.	(b) House recedes with a binding contract rule for transfers before April 1, 1984, and with report language indicating that this provision does not apply to certain partnership arrangements involving builders bonds.
(c) Definition of partner.	(c) House recedes.
44. Elimination of basis strips. (p. 64)	Senate recedes.
45. Allocation of certain liabilities. (p. 64)	Senate recedes with clarifying amendment to define scope of provision overruling Raphan.
F. Accounting Changes	
54. Start-up expenses. (p. 78)	House recedes.
H. Pension and Welfare Benefit Plan Provisions	
67. Affiliated service groups and employee leasing arrangements. (p. 94)	House recedes with amendment providing regulatory authority to exclude from the safeharbor rules in

		the Senate provision certain leases of employees who would be key employees of the lessee.
68.	Standards for cash-or-deferred arrangements. (p. 94)	Senate recedes with amendment adding rules to prevent manipulation by splitting employees into several plans. The provision would not apply to arrangements currently being provided by state governments.

I. Foreign Provisions

72.	Taxation of certain transfers of property outside United States. (p. 108)	
	(a) Transfers of appreciated property.	(a) House recedes.
	(b) Transfer of foreign branch with previously deducted losses.	(b) House recedes, with two liberalizing technical modifications: (i) recognition will not exceed previous net losses and (ii) gain recognized has the character of previous branch losses.
	(c) Treatment of liquidating distributions made by a domestic corporation to foreign persons.	(c) Senate recedes with report language making clear that in no event will the Treasury be precluded from taxing transactions that could be taxed today, even in the absence of regulations. Effective date.--House recedes with a modification that transfers of intangibles after conference action are presumed to have a tax avoidance purpose.
76.	Foreign investment (p. 110)	Senate recedes.

80.	**Treatment of community property income of nonresident aliens.** (p. 116)	Senate recedes.
81.	**Foreign personal holding company rules.** (p. 118)	(a) House recedes with technical amendment to require family attribution when both family members actually own stock. (b) Same in both bills. Clarify that grantor is taxable on income of grantor trust. Effective date.--Senate recedes.
82.	**Ordinary income treatment on disposition of stock of certain foreign corporations under Code section 1248.** (p. 118)	Senate recedes.

J. Compliance Provisions

88.	**Promoter lists.** (p. 126)	(a) Senate recedes with technical modifications. (b) Senate recedes with amendment requiring that tax shelters subject to registration must maintain lists. (c) Same in both bills. Effective date.-- August 31, 1984.
89.	**Registration of tax shelters.** (p. 128)	
	(a) In general.	(a) House recedes.
	(b) Definition of tax shelter.	(b)(1) House recedes with amendments modifying the definitional test to apply to investments where tax reductions exceed cash invested in any of first 5

	years. (b)(2) House recedes with an increase from $200,000 to $250,000.
(c) Deadline for registration.	(c) House recedes with an amendment requiring registration before offering.
(d) Identification numbers	(d) House recedes.
(e) Penalties	(e) House recedes with amendment on (1) providing for penalty of greater of $500 or 1 percent up to $10,000, except that the Senate provision would apply in full where the failure to register is intentional. Effective date.--House recedes; no regulations authority to postpone.
90. Returns relating to mortgage interest and cash received in trade or business (p. 130)	
(a) Mortgage interest.	(a)(1) Senate recedes. (a)(2) Same in both bills. Effective date.--Senate recedes.
[(b) Reporting of cash.	(b) House recedes.]
91. Returns relating to foreclosures and abandonments of security. (p. 130)	
(a) In general.	(a) Senate recedes.
(b) Exceptions.	(b)(1) House recedes. (2) Senate recedes.

(c) Penalties.	(c) Same in both bills. Effective date.--Same in both bills.
92. Increase in penalty for promoting abusive tax shelters. (p. 130)	
(a) Increase 10% to 20%.	(a) Same in both bills.
(b) Increase $1,000 to $2,000.	(b) Senate recedes.
(c) Apply penalty to other statements.	(c) House recedes, with modification making injunctive relief applicable to statements that aid the understatement of tax liability. Effective date--Day after date of enactment.
94. Provisions relating to IRAs. (p. 130)	
(a) Identify years.	Same in both bills. Effective date.--Contributions made after December 31, 1984.
(b) Penalty.	Same in both bills.
(c) Deadline for contributions.	House recedes. Effective date.--Contributions made after December 31, 1984.
95. Returns relating to exchanges of partnership interests. (p. 132)	Senate recedes.
96. Statements required in case of certain substitute payments. (p. 134)	House recedes.
99. Failure to request change of method of accounting.	House recedes.

	(p. 136)	
100.	Interest on certain additions to tax. (p. 138)	House recedes.
101.	Penalty for fraudulent withholding exemption certificate or failure to supply information. (p. 138)	House recedes.
102.	Mailing of deposits of taxes. (p. 138)	House recedes. Effective date.--Deposits required to be made after July 31, 1984.
103.	Penalty for frivolous proceedings before the Tax Court. (p. 138)	House recedes with Statement of Managers language at the appropriate point expressing concern over the failure of the Tax Court to resolve its backlog.
104.	Furnishing of TIN under backup withholding. (p. 138)	House recedes.
107.	Clarification of change of venue for certain tax offenses. (p.140)	House recedes.
108.	Tax Court provisions. (p. 142)	
	(a) CPAs authorized to practice.	(a) House recedes.
	(b) Annuities for survivors of Tax Court Judges.	(b) Senate recedes.
	(c) Tax Court Commissioners.	(c) Senate recedes.
	(d) Publicity of Tax Court proceedings.	(d) Senate recedes.
	[(e) Elimination of mandatory retirement age for Tax Court judges.]	[(e) House recedes.]

K. Depreciation Provisions

113.	Sound recordings. (p. 148)	House recedes.

L. Domestic Relations Tax Reform

116.	Dependency exemption. (p. 152)	Senate recedes.
118.	Gift and estate tax liability for transfers of property incident to divorce. (p. 154)	Senate recedes.

M. Miscellaneous Reform Provisions

119.	Tax benefit rule. (p. 156)	Senate recedes with clarification that increase in tax with respect to credits previously claimed will occur only when there is a price adjustment or similar adjustment to the item giving rise to the credit.
123.	Transfers of depreciable property between related parties. (p. 164)	Senate recedes.
126.	Disallowance of certain expenses where taxpayer uses property similar to property owned by taxpayer. (p. 168)	Senate recedes with Statement of Managers language stating the conferee's belief that the Senate provision reflects present law
130.	Application of related party rule to section 265(2). (p. 172)	House recedes with technical amendment making clear that a minor child is related to a parent. Similar rules to apply to other Code provisions dealing with borrowing to purchase tax advantaged assets. Statement of

		Managers would clarify application to affiliated groups containing insurance companies and financial institutions.
131.	Individual estimated tax. (p. 174)	
	(a) Amount of payment required	(a) Senate recedes
	(b) Exceptions to penalty	(b) Senate recedes.
	(c) Waiver of penalty	(c) House recedes with amendment making this provision applicable to taxable years beginning after December 31, 1983.
	(d) Alternative minimum tax	(d) Same in both bills.
	(e) Credit of overpayments	(e) Senate recedes.

X. Miscellaneous Revenue Provisions

A. Estate and Gift Tax Provisions

194.	Special estate tax credits. (p. 282)	House recedes.
195.	Permit perfection of estate tax current use valuation elections. (p. 284)	House recedes with language in the Statement of Managers that election and agreement, as filed, must substantially comply with regulations.
197.	Reformation of charitable split-interest trusts. (p. 284)	House recedes.

E. Employee Benefits

221.	Distribution requirements for plans, accounts, and annuities of an insurer in rehabilitation proceedings. (p. 316)	House recedes.

H. Administrative Provisions

229.	Financial reporting of the investment tax credit. (p. 326)	House recedes.
231.	Statute of limitations relating to contributions to the capital of a corporation. (p. 326)	House recedes with technical modifications requiring notification to the Secretary of a contribution in order for the statute of limitations to commence.

M. Extensions of Existing Provisions and Miscellaneous Transitional Rules

253.	Extension of Payment-in-Kind Tax Treatment Act of 1983. (p. 358)	(a) Same in both bills. (b) House recedes with report language that the conferees understand that the administration intends to limit participation in the PIK program to $50,000 per person.
257.	Disallowance of deduction for costs of demolishing structures. (p. 360)	House recedes.
265.	Deadwood. (p. 372)	Senate recedes.